Remarks/Arguments

In response to the Office Action mailed Mach 20, 2008, Applicants respectfully request that the Examiner reconsider the objections to the specification and drawings and the rejections of the remaining claims.

Claims 1-12 remain.

Claims 1 and 12 stand rejected under 35 U.S.C. § 112, first paragraph as filing to comply with the enablement requirement, insofar as the subject matter was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make and/or use the invention. Specifically, Applicant respectfully submits that the ordinary person skilled in the art would know that many materials and sensors can detect a rise in temperature that would result when that material or sensor comes into contact with a human body. In addition, an ordinarily person skilled in the art would also recognize that many materials stretch as a result of pressure when a person puts that material around the human body. Consequently, Applicant has amended claims 1 and 12 to further clarify the invention and respectfully submits that claims 1 and 12 are now compliant with 35 U.S.C. § 112, first paragraph.

Claim 10 is objected to due to an informality consisting of a typographical error which has been corrected. Applicants respectfully submit that the informality has been corrected and the claim is now compliant.

Claims 1 and 5-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,122,544 ("Stager"). Applicants respectfully traverse these rejections.

An anticipation rejection of a claim under 35 U.S.C. §102(b) requires identity of invention; each and every feature of the claim must be identified by the Examiner, either explicitly or inherently, in a single prior art reference. Further, to establish inherency, extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the device or system described in the reference, and that it would be so recognized by persons of ordinary skill in the art. *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999). Inherency may not be established by probabilities or possibilities; the mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish inherency. *Scaltech, Inc. v.*

Retech/ Tetra L.L.C., 156 F.3d 1193, 51 USPQ.2d 1055 (Fed. Cir. 1999). The Examiner has not met this burden as to the claims of the present application.

Even if the Examiner met his burden, Stager does not teach or suggest having two layers, a first fluid impervious layer; and a treatment fluid dispensing layer secured to and underlying the fluid impervious layer wherein the treatment fluid dispensing layer dispenses treatment fluid upon an activation trigger as recited in independent claims 1 and 12. Therefore, Applicant respectfully submits that claims 1 and 12 are patentable over Stager. In addition, since claims 5-10 are dependent claim 1, Applicant respectfully submits that claims 5-10 are also patentable over Stager for at least the same reasons.

Claims 2 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stager, in view of U.S. patent No. 6,927,316 ("Faries, Jr. et al.").

As stated above, clams 1 and 12 are patentable over Stager. In addition, Applicant respectfully submits that Faries, Jr. et al. does not teach or suggest the shortcomings of Stager. Indeed, Stager and Faries Jr. et al. individually, or in combination, fail to teach or suggest having two layers, a first fluid impervious layer, and a treatment fluid dispensing layer secured to and underlying the fluid impervious layer wherein the treatment fluid dispensing layer dispenses treatment fluid upon an activation trigger as recited in independent claims 1 and 12. Further, since claim 2 is dependent on claim 1, claim 2 is also patentable over Stage and Faries, Jr. et al. for at least the same reasons.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Stager in view of Faries, Jr. et al. as applied to claim 1, above, and in further view of U.S. Patent No. 2,010,345 ("Brewster").

As stated above, clams 1 and 12 are patentable over Stager and Faries, Jr. et al. Moreover, Applicant respectfully submits that Brewster does not teach or suggest the shortcomings of Stager Faries, Jr. et al. Specifically, Stager, Faries Jr. et al. and Brewster individually, or in combination, fail to teach or suggest having two layers, a first fluid impervious layer; and a treatment fluid dispensing layer secured to and underlying the fluid impervious layer wherein the treatment fluid dispensing layer dispenses treatment fluid upon an activation trigger as recited in independent claims 1 and 12. Further, since claims 3-4 are

dependent on claim 1, claims 3-4 are also patentable over Stage, Faries, Jr. et al. and Brewster for at least the same reasons.

Furthermore, Applicant has added claims 13-16 and respectfully submits that since independent claims 1 and 12 are patentable over the cited art and claims 13-16 are dependent on claims 1 and 12, that claims 13-16 are also patentable over the cited art for at least the same reasons.

No new matter has been added. Applicants respectfully submit that the Claims as they now stand are patentably distinct over the art cited during the prosecution thereof.

With the addition of 4 claims, the number of claims still remains under 20 and, as such, no additional filing fees are due. However, Applicants respectfully request a One (1) Month Extension of Time to File this Response. Enclosed with this report is Form PTO/SB/22 with Extension Fees in the amount of $60.00. The Director is hereby authorized to charge any fees or credit any overpayment to Deposit Account Number 50-0856 of Michael A. O'Neil, PC.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at 214-739-0088, ext. 8.

Respectfully submitted,

Date: 7/21/08

/Ruben C. DeLeon/

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